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NATH & ASSOCIATES
112 South West Street
Alexandria, VA 22314

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/528,779 | WADEWITZ, PETER | |
| | Examiner | Art Unit | |
| | Simon Vainberg | 1797 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *25 March 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☒ Claim(s) *8* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *93/22/2005* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *03/22/2005*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Objections*

Claim 7 is objected to because of the following informalities: There is missing word between the words "lowermost" and "for isolation". Appropriate correction is required.

### *Specification*

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d) (1) and MPEP § 608.01(o). Correction of the following is required:

- specification does not teach "a single exiting conduit which feed into a pump" (see claim 1 line 7).
- specification does not teaches that "there are means with which to access the liquid in the sump from the outside the container" (see claim 6). Specification teaches " there are means to effect cleansing from" (see page 4 paragraph 5).
- specification does not teach that "there are number of chambers in connection with the lowermost (?) for isolation of the liquid material produced" (see claim 7).

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the **plurality of apertures** disposed on the floor means and located at lowermost point to allow **liquid** to pass through and into the sump" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p) (5) because they include the following reference character(s) not mentioned in the description: number 11 (see Fig.1). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the

filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

Claim 8 is objected to because of the following informalities: the word "compositing" should be replaced by the word "composting" (see claim 8 line 14). Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1, 2, 5, 7-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wadewitz (WO 00/37393) (IDS) in view of Rihtamo et al. (US Patent 6596050).

Regarding claim 1, Wadewitz teaches an apparatus for the composting of material which includes a container which has an openable lid which closes with respect to its surrounding perimeter by means of a resilient seal so as to provide a substantially airtight closure with the container, across the bottom of the container being a series of conduits which have a plurality of holes passing through the walls thereof which are collectively fed to a single exiting conduit which feeds into a pump and through a filter back into a supply conduit ( see page 6 lines 30 through page 7 line 2).

Wadewitz does not teach that aqueous liquids formed during treatment are held at a level lower than that of the supply conduits, by a combination of a sump below the supply conduits and floor means to hold the material being treated above the sump.

Rihtamo et al. teaches the waste treatment reactor (2) wherein an aqueous liquid formed during a treatment are held at a level (8) lower than that of the supply conduits (4) and (5) (see Fig. 2 and column 3 lines 35-38). Rihtamo et al. further teaches the reactor comprising a sump (8) (called a liquid collecting space, see column 4 lines 24-26 and lines 33-35) and intermediate floor (11) which separates the liquid collecting space (8) from the reactor treatment space (3) (see column 4 lines 28-31). Material (6) in treatment space inherently is located above the sump (see Fig. 2 and column 3 line 60).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Wadewitz by fabricating the liquid collection sump below the flow of the reactor and supply conduit as taught by Rihtamo

because that allows one to use a collected liquid either for recirculation or for removal of toxic chemicals.

Regarding claim 2, Wadewitz and Rihtamo et al. teach the apparatus of claim 1, further characterized in that the floor means has a plurality of apertures disposed thereon.

Rihtamo et al. teaches a floor of the treatment reactor (2) with a plurality of apertures (11) (called a sieve plate).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Wadewitz by fabricating the floor as a sieve plate with a plurality of apertures as taught by Rihtamo et al. because it allows one to collect the liquid during the treatment under the floor in a liquid collection area.

Regarding claim 5, Wadewitz and Rihtamo et al. teach the apparatus of claim 1 further characterized in that there is a pump means to pump the liquid from the lowermost area to disperse over the top of the material to be composted.

Rihtamo et al. teaches a pump (9) which pump the liquid from the lowermost area (8) to the upper part of the apparatus (reactor) to disperse over the top of the material to be composted (see Fig. 2 and column 4 lines 23-28).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Wadewitz by installing the pump to transfer the liquid from the lower part of the apparatus to the top of the material in the apparatus as taught by Rihtamo et al. because that allows one to maintain the required moisture of the material.

Claim 7. The limitations of this claim are not defined correctly by the claim language, specification and drawings. Examiner interpreted this claim as a number of chambers in connection with the lowermost part for isolation of the liquid material produced.

Regarding claim 7, Wadewitz and Rihtamo et al. teach the apparatus as claimed in claim 1firther characterized in that there are numbers of chambers in connection with the lowermost part for isolation of the liquid material produced.

Rihtamo et al. teaches a liquid collection chamber (8) and separate chamber (13) (called container) (see column 5 lines 55-58).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Wadewitz by fabricating the two chambers (one for the collecting of the liquid during the composting and the other for the storage and treatment of the liquid) as taught by Rihtamo et al. because that allows one to periodically remove the liquid with harmful substances without interruption of the composting process.

Regarding claim 8, Wadewitz teaches a method of treating materials to be composted which includes the steps of containing such materials within the closed container as described in any of the apparatus claims then effecting a first covering of woodchips then successively a layer of organic material to be composted and a layer of absorbing woodchips (see claim 6), pumping air into the container at one part of the contained body of material, and taking the air having passed through the material from the container so that it, and it only, will be substantially recirculated back to an

introduction location of the material (see claim 1) so that gaseous products of any decomposition of the materials will be kept within the container or its connected conduits.

Wadewitz does not teach that the liquid formed as a result of the composting passes through the floor means and is held at a level lower than that of the supply conduits.

Rihtamo et al. teaches that the liquid during the treatment of waste material (6) passes through the floor means (11) (called sieve plate) and is held at a level (8) (called liquid collecting space) lower than that of the supply conduits (4 and 5) (see Fig. 2 and column 3 lines 35-37 and column 4 lines 20-40).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Wadewitz by including the steps of the liquid passing through the sieve floor and being collected in the liquid collecting space as taught by Rihtamo et al. because it allows one to collect and remove the liquid with toxic materials or to return the liquid back to the treatment zone.

Regarding claim 9, Wadewitz and Rihtamo et al. teach the method of claim 8, wherein the collected liquid is extracted from the lower most level and reintroduced in to the top of the container (see Rihtamo et al. Fig. 2 and column 4 lines 20-22 and 34-40).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Wadewitz by introducing the collected liquid to the top of the container because it allows one to maintain the required moisture in the container.

Regarding claim 10, Wadewitz and Rihtamo et al. teach the method of claim 9, except that the extraction of liquid and its reintroduction to the top of the container is effected from time to time through the period of composting.

Rihtamo et al. teaches a method of reintroduction of the liquid from the collecting space (8) to the treatment zone of reactor (3) through a recirculation system (7) (see column 3 lines 60-62 and column 4 lines 36-40 and Fig. 2). Rihtamo et al. does not teach directly that the introduction of liquid from the collecting space to the reactor is carried out from time to time during the treatment.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Wadewitz by including the recirculation step as taught by Rihtamo et al. and conducting the recirculation step several times instead of continuous recirculation since it was known in the art that this allows one to reduce the operational expenses during the treatment.

Regarding claim 11, Wadewitz and Rihtamo et al. teach the method of claim 8, wherein the liquid is collected and held for a period of time to encourage bacteria growth.

Rihtamo et al. also teach collecting and holding the liquid in the liquid collecting basin during the treatment (see Example 1 column 6 lines 46-48).

Rihtamo et al. also teaches that the reactor can be provided with feed devices for feeding moisture, the nutrients, oxygen, steam and/or solid matter into the reactor (see column 3 lines 35-37). The apparatus may also comprise a separate return space, which is located below the reactor (see column 4 lines 34-36). A bacterial stock can be

added to the waste material or the procedure can also be implemented without an added bacterial stock (see column 5 lines 6-13).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to hold the liquid in collecting container since it was known in the art that holding the collecting liquid with nutrients and added bacteria (or even without an added bacteria) stimulates the growth of bacteria.

Regarding claim 12, Wadewitz and Rihtamo et al. teach a method of treating materials to be composted as in claim 8 further characterised in that there are conduits attached to the container which are also coupled to an air pump so that the air pump will cause the air to be extracted through one conduit and to be introduced back into the container through the other conduit (see claim 2 of the Wadewitz reference).

Regarding claim 13, Wadewitz and Rihtamo et al. teach a method of treating materials to be composted as in claim 8 further characterized in that the recirculation is effected from time to time through the period of composting.

Wadewitz teaches an effective pattern of recirculation which should be 2 hours "on" and one hour "off" ( see claim 3 and page 7 line 28).

Regarding claim 14, Wadewitz and Rihtamo et al. teach a method of treating materials to be composted as in claim 8 further characterized in that the recirculation of the air and gases is through a biofilter in the pathway of such recirculating gases ( see the Wadewitz reference claim 4).

Regarding claim 15, Wadewitz and Rihtamo et al. teach a method of treating materials to be composted as in claim 14 further characterized in that the biofilter

includes compost through which the air to be filtered is passed ( see the Wadewitz reference claim 5).

Regarding claim 16, Wadewitz and Rihtamo et al. teach a method of treating materials to be composted as in claim 8 wherein the layer of organic material to be composted is a layer of bodies (see the Wadewitz reference claim 6).

Regarding claim 17, Wadewitz and Rihtamo et al. teach a method of treating materials to be composted as in claim 8 which are high in protein content including the steps of holding the composting materials in a closed container and recycling through the material substantially only the air and any resultant gases given off from the composting materials (see the Wadewitz reference claim 7).

Regarding claim 18, Wadewitz and Rihtamo et al. teach a method of treating materials to be composted as in claim 17 further characterized in that there are means to effect a cyclic operation of a pump so that it can be switched on and switched off over a decomposing period according to a prearranged program (see the Wadewitz reference claim 8).

4. Claims 3, 4, 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wadewitz (WO 00/37393) (IDS) in view of Rihtamo et al. (US Patent 6596050) and further in view of Petzinger (US Patent 4108609).

Regarding claim 3, Wadewitz and Rihtamo et al. teach the apparatus of claim 1 except that the floor means is sloping.

Petzinger teaches a compost container with a sloping floor (28) (called sloping bottom wall (see Fig. 1 and column 2 line 13).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Wadewitz and Rihtamo et al. by fabricating the floor as a sloping floor as taught by Petzinger because it facilitates the removal of liquid sap.

Claim 4. Specification and drawings does not reveal the plurality of the apertures disposed on the floor on floor means are located at a lowermost point to allow liquid to pass through and into the sump. Examiner interpreted this claim as a plurality of the apertures located on the reactor's floor.

Regarding claim 4, Wadewitz, Rihtamo et al. and Petzinger teach the apparatus of claim 3, wherein the plurality of apertures disposed on floor means are located at a lowermost point to allow liquid to pass through and into the sump.

Rihtamo et al teaches a plurality of apertures on the flow (11) which are located at a lowermost point of the reactor to allow liquid to pass through and into the sump (8) (called liquid collecting space) (see Fig. 2 and column 4 lines 28-31).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Wadewitz and Petzinger by fabricating apertures at the lowermost part of the reactor as taught by Rihtamo et al. because that provides a liquid passing from the upper area of the reactor to the liquid collecting space.

Regarding claim 6, Wadewitz and Rihtamo et al. teaches the apparatus of claim 1 except the means with which to access the liquid in the sump from the outside the container.

Rihtamo et al. teaches a pump (12) to remove the liquid from the sump into a separate container (13) (see column 5 lines 55-58).

Petzinger teaches a cover (50) with a pull ring (52) which facilitates removal of the cover when it is desired to remove sap from the sump (34) (called collecting tank) (see Fig. 1 and column 2 lines 25-28).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Wadewitz and Rihtamo et al. by fabricating the separable cover on the part of the sump tank as taught by Petzinger because that allows one to remove the sap from the sump.

5. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wadewitz (WO 00/37393) (IDS) in view of Petzinger (US Patent 4108609).

Regarding claim 19, Wadewitz teaches a method of composting which includes the steps of placing the materials to be composted into a container, sealing the container and then blowing in a recycling manner substantially only the air and gases contained within the container through the composting materials for a period of time to collect and distribute ammonia sufficient to allow for a substantial buildup in concentration to a pathogen killing level of ammonia derived from the composting materials, maintaining such circulation for a sufficient period of time so as to effect a substantial pathogen kill in the composting material ( see claim 9).

Wadewitz does not teach collecting the liquid produced during the composting from a chamber positioned below the level of the material.

Petzinger teaches collecting the liquid produced during the composting from a chamber (34) (called collecting or holding tank) positioned below the level of the material (see Fig. 2 and column 2 lines 19- 32 and column 4 lines 8-15) and using the collected liquid either to moisten the compost container (see column 3 line s 51 and 52) or use it on a garden or lawn (see column 4 lines 13 and 14).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Wadewitz by collecting the liquid produced during the composting from a chamber positioned below the level of the material as taught by Petzinger because this allows one to use this liquid either to moisten the material in a compost container or to use it on a garden or lawn.

Regarding claim 20, Wadewitz and Petzinger teach a method as in claim 19 further characterized in that the composting materials are placed in layers with materials separating the respective layers, which are porous (see the Wadewitz reference claim 10).

***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In *re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 8 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 6 of U.S. Patent No. 6703234 in view of in view of Rihtamo et al. (US Patent 6596050).

Regarding claim 8, Wadewitz teaches a method of treating materials to be composted which includes the steps of containing such materials within the closed container as described in any of the apparatus claims then effecting a first covering of woodchips then successively a layer of organic material to be composted and a layer of absorbing woodchips (see claim 6), pumping air into the container at one part of the contained body of material, and taking the air having passed through the material from the container so that it, and it only, will be substantially recirculated back to an introduction location of the material (see claim 1) so that gaseous products of any decomposition of the materials will be kept within the container or its connected conduits.

Wadewitz does not teaches that the liquid formed as a result of the composting passes through the floor means and is held at a level lower than that of the supply conduits.

Rihtamo et al. teaches that the liquid during the treatment of waste material (6) passes through the floor means (11) (called sieve plate) and is held at a level (8) (called liquid collecting space) lower than that of the supply conduits (4 and 5) (see Fig. 2 and column 3 lines 35-37 and column 4 lines 20-40).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Wadewitz by including the steps of liquid passing through the sieve floor and being collected in the liquid collecting space as taught by Rihtamo et al. because it allows one either to remove the liquid with toxic materials or to return the liquid back to the treatment zone.

3. Claims 12 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 2 of U.S. Patent No. 6703234 in view of in view of Rihtamo et al. (US Patent 6596050).

Regarding claim 12, Wadewitz and Rihtamo et al. teach a method of treating materials to be composted as in claim 8 further characterised in that there are conduits attached to the container which are also coupled to an air pump so that the air pump will cause the air to be extracted through one conduit and to be introduced back into the container through the other conduit (see claim 2 of the Wadewitz reference).

4. Claims 13 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 8 of U.S. Patent No. 6703234 in view of in view of Rihtamo et al. (US Patent 6596050).

Regarding claim 13, Wadewitz and Rihtamo et al. teach a method of treating materials to be composted as in claim 8 further characterized in that the recirculation is

effected from time to time through the period of composting (see claim 3 of the Wadewitz reference).

5. Claims 14 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 8 of U.S. Patent No. 6703234 in view of in view of Rihtamo et al. (US Patent 6596050).

Regarding claim 14, Wadewitz and Rihtamo et al. teach a method of treating materials to be composted as in claim 8 further characterized in that the recirculation of the air and gases is through a biofilter in the pathway of such recirculating gases ( see claim 4 of the Wadewitz reference).

6. Claims 15 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 8 of U.S. Patent No. 6703234 in view of in view of Rihtamo et al. (US Patent 6596050).

Regarding claim 15, Wadewitz and Rihtamo et al. teach a method of treating materials to be composted as in claim 14 further characterized in that the biofilter includes compost through which the air to be filtered is passed ( see claim 5 of the Wadewitz reference).

7. Claims 16 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 8 of U.S. Patent No. 6703234 in view of in view of Rihtamo et al. (US Patent 6596050).

Regarding claim 16, Wadewitz and Rihtamo et al. teach a method of treating materials to be composted as in claim 8 wherein the layer of organic material to be composted is a layer of bodies (see claim 6 of the Wadewitz reference).

Regarding claim 17, Wadewitz and Rihtamo et al. teach a method of treating materials to be composted as in claim 8 which are high in protein content including the steps of holding the composting materials in a closed container and recycling through the material substantially only the air and any resultant gases given off from the composting materials (see the Wadewitz reference claim 10).

8. Claims 19 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 12 of U.S. Patent No. 6703234 in view of in view of Petzinger (US Patent 4108609).

Regarding claim 19, Wadewitz teaches a method of composting which includes the steps of placing the materials to be composted into a container, sealing the container and then blowing in a recycling manner substantially only the air and gases contained within the container through the composting materials for a period of time to collect and distribute ammonia sufficient to allow for a substantial buildup in concentration to a pathogen killing level of ammonia derived from the composting materials, maintaining such circulation for a sufficient period of time so as to effect a substantial pathogen kill in the composting material ( see claim 12).

Wadewitz does not teach collecting the liquid produced during the composting from a chamber positioned below the level of the material.

Petzinger teaches collecting the liquid produced during the composting from a chamber (34) (called collecting or holding tank) positioned below the level of the material (see Fig. 2 and column 2 lines 19- 32 and column 4 lines 8-15) and using the

collected liquid either to moisten the compost container (see column 3 lines 51 and 52) or use it on a garden or lawn (see column 4 lines 13 and 14).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Wadewitz by collecting the liquid produced during the composting from a chamber positioned below the level of the material as taught by Petzinger because this allows one to use this liquid either to moisten the material in a compost container or to use it on a garden or lawn.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 7 depends of claim 1 and recites the limitation "there are number of chambers in connection with the lowermost" in line 3. There is insufficient antecedent basis for this limitation in the preceding claim.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Simon Vainberg whose telephone number is 571-270-3150. The examiner can normally be reached on Monday- Thursday 7:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Griffin can be reached on 571-272-1447. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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SV

WALTER D. GRIFFIN
SUPERVISORY PATENT EXAMINER